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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,452	02/04/2004	Ernest John Chenery		2963
7590	11/28/2005			
Steven R. Deam 3908 Fourier Dr. Fort Wayne, IN 46818			EXAMINER LOPEZ, FRANK D	
			ART UNIT 3745	PAPER NUMBER
DATE MAILED: 11/28/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Final

Office Action Summary

Application No.

10/771,452

Applicant(s)

CHENERY ET AL.

Examiner

F. Daniel Lopez

Art Unit

3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/4/04 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "22" (fig 2) and "11" (fig 1) have both been used to designate the mass.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities: on page 8 (beginning "Detailed Description of the Preferred Embodiment") line 13-14 "mass in communication with the armature (11)" should be --mass (11) in communication with the armature--; line 20 "seal on a hammer (16)" should be --seal (16) on a hammer--; on page 9 line 11 "gas released from the valve (24)" should be -- gas (24) released from the valve--, to agree with the drawings; and throughout the specification "reservoir" (e.g. page 8 line 10) should be --chamber--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 1 and 2 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

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In claims 1 and 2 each new section should start with a small letter, not a capital letter (e.g. "A" claim 1 line 4), since the claim is only one sentence long. In claim 1 line 4 "gas reservoirs" and claim 2 line 10 "gas-containing reservoir" should be --gas chamber-- , since the air is not stored in the chamber.

In claim 2 line 1 "ram device", line 5 "ram", line 6 "hammer" and line 15 "ram armature" appear to be the same element, and so should only have one word for it. In claim 2 line 11 "membrane" should be --piston--, to agree with the disclosure. In claim 2 last line " ," should be --. --, since a sentence ends with a period.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 1 and 2 are rejected under 35 U.S.C. § 103 as being unpatentable over Cho in view of Benson. Cho discloses a fluid apparatus comprising a ram (including 38) in a cylinder (28, reservoir) controlling a gate valve (20), wherein the ram is biased by a spring (48) to move the valve to a closed position (fig 1) and charged with fluid through an input port (46) to move the valve to an open position; wherein the gate valve is designed to allow (exhaust) a small amount of flow back at the ram, when opened, biasing the ram and valve toward the closed position; wherein the ram has a diaphragm type seal (44) connected to a piston (44) and a second seal (40) isolating the spring from the gate valve; but does not disclose that there is a quick evacuation valve to direct air flow through the inlet port, into the cylinder and out without pressure resistance; or that the piston has a u- shaped seal.

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Benson teaches, for a fluid apparatus comprising a ram (including 74) in a cylinder (55, reservoir) controlling a gate valve (30), wherein the ram is biased by a spring (88) to move the valve to an open position (fig 2) and charged with fluid through an input port (59) to move the valve to a closed position; wherein the ram has a seal connected to a piston (58) and a second seal (95) isolating the spring from the gate valve; that there is a quick evacuation valve (63), for the purpose of directing air flow through the inlet port, into the cylinder and out without pressure resistance; and that the seal of the piston is a u- shaped seal.

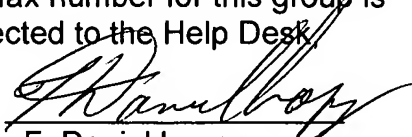
Since Cho and Benson are both from the same field of endeavor, the purpose disclosed by Benson would have been recognized in the pertinent art of Cho. It would have been obvious at the time the invention was made to one having ordinary skill in the art to include a quick evacuation valve, as taught by Benson, for the purpose of directing air flow through the inlet port of Cho, into the cylinder and out without pressure resistance.

Since the seals of Cho and Benson are functionally equivalent in the piston art, it would have been obvious at the time the invention was made to one having ordinary skill in the art to replace the diaphragm type seal of Cho with a u- shaped seal, with corresponding changes in the piston, as taught by Benson, as a matter of engineering expediency.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is 571-272-4821. The examiner can normally be reached on Monday-Thursday from 6:15 AM -3:45 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on 571-272-4820. The fax number for this group is 571-273-8300. Any inquiry of a general nature should be directed to the Help Desk, whose telephone number is 1-800-PTO-9199.



F. Daniel Lopez
Primary Examiner
Art Unit 3745
November 22, 2005